

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34102

STATE OF IDAHO,)	2008 Unpublished Opinion No. 568
)	
Plaintiff-Respondent,)	Filed: July 31, 2008
)	
v.)	Stephen W. Kenyon, Clerk
)	
TIMOTHY LEE TOZER,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Cheri C. Copsey, District Judge.

Judgment of conviction and concurrent unified sentences of life imprisonment, with forty years determinate, for two counts of lewd conduct with a minor under sixteen, affirmed.

Molly J. Huskey, State Appellate Public Defender; Erik R. Lehtinen, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

PER CURIAM

Timothy Lee Tozer was indicted by a grand jury on four counts of lewd conduct with a minor and pursuant to a plea agreement, pled guilty to two counts of lewd conduct with a minor under sixteen, I.C. § 18-1508. The district court sentenced Tozer to concurrent unified sentences of life imprisonment, with forty years determinate. Tozer filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Tozer appeals from his judgment of conviction and sentences, contending that the district court abused its discretion by imposing excessive sentences.

Where a sentence is within the statutory limits, it will not be disturbed on appeal absent an abuse of the sentencing court's discretion. *State v. Hedger*, 115 Idaho 598, 604, 768 P.2d 1331, 1337 (1989). We will not conclude on review that the sentencing court abused its discretion unless the sentence is unreasonable under the facts of the case. *State v. Brown*, 121

Idaho 385, 393, 825 P.2d 482, 490 (1992). In evaluating the reasonableness of a sentence, we consider the nature of the offense and the character of the offender, applying our well-established standards of review. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 170 P.3d 387 (2007).

Applying the foregoing standards and having reviewed the record, we conclude that the district court did not abuse its discretion by imposing the sentences. Accordingly, Tozer's judgment of conviction and sentences are affirmed.